PRE-APPEAL BRIEF REQUEST FOR REVIEW	Docket Number	
	Q80686	

	Application Number	Filed
Mail Stop AF	10/809,521	March 26, 2004
Commissioner for Patents	First Named Inventor	
P.O. Box 1450 Alexandria, VA 22313-1450	Emmanuel MARILLY	
	Art Unit	Examiner
	2157	Blake J. RUBIN

WASHINGTON OFFICE

23373

CUSTOMER NUMBER

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal

The review is requested for the reasons(s) stated on the attached sheet(s).
    Note: No more than five (5) pages may be provided.

☑ I am an attorney or agent of record.
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Signature

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September 22, 2008
_____
Date

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of   Docket No: Q80686

Emmanuel MARILLY, et al.

Appln. No.: 10/809,521   Group Art Unit: 2157

Confirmation No.: 7535   Examiner: Blake J. RUBIN

Filed: March 26, 2004

For: A LOCAL ASSURANCE MANAGEMENT DEVICE FOR AN EQUIPMENT ELEMENT
        IN A COMMUNICATION NETWORK

PRE-APPEAL BRIEF REQUEST FOR REVIEW

MAIL STOP AF - PATENTS
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Pursuant to the Pre-Appeal Brief Conference Pilot Program, and further to the

Examiner's Final Office Action dated May 22, 2008, Applicant files this Pre-Appeal Brief

Request for Review. This Request is also accompanied by the filing of a Notice of Appeal.

Applicant turns now to the rejections at issue. As of the Advisory Action mailed

September 10, 2008, all amendments have been entered and claims 1-33 stand rejected under 35

U.S.C. § 102(e) as being allegedly anticipated by Sistanizadeh et al. (U.S. 6,681,232; hereinafter

"Sistanizadeh"). The rejection under 35 U.S.C. § 112, second paragraph appears to be

withdrawn.

Claim 1

Claim 1 recites, in part:

a built-in management information base used to ***store management data which
are representative of said measured parameter values***, wherein the device
comprises management means which are arranged to adapt the configuration of
said network element according to at least said management data stored in said
management information base.

The Examiner in the Advisory Action asserts:

> an SNMP agent stores and retrieves management data as defined by the MIB
> (column 16, lines 25-25), furthermore, the managed data of Sistanizadeh includes
> data from, "The measurement service module 161 [which] looks at the raw data
> from the various monitoring devices, as accumulated by the monitoring service
> 157" (column 19, lines 5-7), whereby the modules are a part of "the SLM
> application server 107 relies on a Relational Database 109, which contains
> information on the Network and Service Topologies, network and service metrics,
> SLA parameters, customer demarcation points, service scope and boundaries, etc"
> (column 7, lines 41-44)

as disclosing "management data which are representative of said measured parameter values."

(See Advisory Action mailed September 10, 2008, page 2). Based on the above comments, the

Examiner has failed to respond to the crux of the argument presented in the Amendment filed

August 22, 2008. In Sistanizadeh, the modules 161 are part of the SLM application plane (see

col. 19, line 60 and FIG. 7). Contrary to the Examiner's assertion, FIG. 7 of Sistanizadeh does

not teach or suggest that the measurement service module 161 is a part of the SLM application

server 107. Furthermore, the subscriber chooses how much bandwidth to purchase. (See col. 21,

lines 36-37). In response to the choice by the subscriber, the provisioning service module 151

instructs ***the management module 165 to allocate reserved resources*** to the particular

customer's service. In response, the management module 165 instructs the agent(s) in the

affected switch(es) to make the necessary configuration changes to provide the increased

bandwidth service for the port(s) of the particular customer. (See col. 21, lines 45-51).

Accordingly, the management module of Sistanizadeh is unrelated to the "management data" as recited in the claimed invention, as the management module of Sistanizadeh allocates bandwidth in response to a subscriber's demand. In the present invention, however, the management data are representative of said measured parameter values. Thus, the management module of Sistanizadeh does not disclose or suggest, "management data", as claimed.

Claim 1 also recites, in part:

> the device comprises management means which are arranged to adapt the configuration of said network element according to...chosen rules, known as assurance rules, defining a local assurance policy, where said adaptation comprises a change to *a measurement policy parameter* and/or a change to a report transmission policy to said network management system.

In the Advisory Action, the Examiner asserts that Sistanizadeh discloses a change to the measurement policy as "QoS monitoring/reporting and automatic bandwidth increases/decreases" (col. 17, lines 50-53). In Sistanizadeh, however, "QoS monitoring/reporting and automatic bandwidth increases/decreases" relates to service layer and network management layer services. (See col. 17, lines 50-53). Sistanizadeh, however, does not teach or suggest that "the QoS monitoring/reporting and automatic bandwidth increases/decreases" corresponds to "where said adaptation comprises a change to a *measurement policy parameter*" as recited in claim 1.

Claim 2

Claim 2 recites, in part, "management means are arranged so as to adapt said configuration according to information data coming from at least one other network element". The Examiner asserts, "Sistanizadeh discloses the adaptation of the configuration data coming

from at least one other network element (column 18, lines 56-59, where the *provisioning service*

anticipates the information data coming from another network element as a result of submitting

the information to the relevant devices in the network)". The "provisioning service" of

Sistanizadeh, however, "***submits*** the information to the relevant device in the network plane

equipment" but does not disclose or suggest, "adapt said configuration according to

information data ***coming from*** at least one other network element" as recited in claim 2. Thus,

claim 2 should be deemed allowable.

Claim 3

Claim 3 recites, in part, "wherein said adaptation comprises a change to a method of

operation of said network element". In the Advisory Action, the Examiner argues:

> Sistanizadeh disclosure of changing the bandwidth per an operation of the
> customer (col. 29, lines 40-46, start of a File Transfer Protocol) anticipates a
> change in method of operation, not merely because the amount of bandwidth
> simply changed, but rather because the type and level of service changed to
> accommodate the operation (col. 28, lines 40-46, provide a guaranteed bandwidth
> with minimum jitter dynamically at the detected start of a voice over IP session).

Based on the Examiner's comments, the Examiner has maintained that changing the bandwidth

per a customer demand corresponds to a change to a method of operation of said network

element. Changing the bandwidth of the agent in Sistanizadeh, however, does not disclose

"wherein said adaptation comprises a change to a method of operation of said network element"

as claimed. Therefore, claim 3 should be deemed allowable.

Claim 4

Claim 4 recites in part:

analysis means arranged so as to determine, in accordance with certain of said chosen assurance rules, information data representing the changes in time, over a chosen interval, of parameter values in the network stored in said management information base.

The Examiner maintains that col. 21, lines 7-14, and col. 25, lines 20-25 of Sistanizadeh disclose the above recited features. Sistanizadeh, however, teaches that the measurement module 161 computes the report statistics for the particular customer from *the raw data* from latency agents, (see col. 21, lines 7-14), and the latency agents identify and report latency violations (see col. 25, lines 20-25). The Examiner argues in the Final Office Action dated May 22, 2008, that the "latency agent anticipates the chosen assurance rules as a result of an alarm triggered a respective threshold value is exceeded", however, an alarm being triggered does not teach or suggest that the "in accordance with certain of said chosen assurance rules, information data representing the changes in time". Therefore, claim 4 should be deemed allowable.

Conclusion

For at least the above reasons, claim 1 should be deemed allowable. Accordingly, claims 2-33 should be patentable at least by virtue of their respective dependencies from claim 1.

Respectfully submitted,

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